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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION :  
OR REVOCATION OF THE LICENSE OF :

MITCHELL L. ELIAS, D.D.S. :  
LICENSE NO. DI009682 :

TO PRACTICE DENTISTRY IN THE :  
STATE OF NEW JERSEY :

Administrative Action

CONSENT ORDER

This matter was originally opened to the State Board of Dentistry (hereinafter the "Board") by way of Order to Show Cause and Verified Complaint which alleged that Respondent Mitchell L. Elias, D.D.S. (hereinafter "Respondent") engaged in conduct constituting violations of the following: N.J.A.C. 13:45C-1.2; N.J.A.C. 13:45C- 1.3(a) 1,2,4, and 6; N.J.S.A. 45:1-21(h) in that he failed to comply with a subpoena duces tecum for the production of records for patients "J.R." and "E.Y."; and N.J.S.A. 45:6-10 and N.J.S.A. 45:1-7 in that he failed to renew his certificate of registration for the biennial renewal period of 1995-1997. On May 21, 1997 a Default hearing was held in the matter. As a result, the Board found against the Respondent and entered an Order Entering Default and Imposing Sanctions in which an aggregate civil penalty in the amount of \$4000.00. was assessed (\$2500.00 for the failure to comply with the subpoena and \$1500.00 for the failure to renew the certificate of registration). Further, Respondent's license to practice Dentistry in the State

of New Jersey was immediately suspended. Respondent was also ordered to pay costs in the amount of \$391.14.

Subsequent to the entry of the Order, Respondent's counsel moved to vacate the Order and submitted an Affidavit in Support of Petition to Vacate Default and Vacate Sanctions. Complainant entered a stipulation that the records for patients "J.R." and "E.Y." had in fact been submitted and thereby moved to dismiss Count I of the Verified Complaint in its entirety. On September 10, 1997, the date this matter was scheduled to be heard, Respondent appeared before the Board and, as a result of negotiation between the parties, this Consent Order was reached in lieu of proceeding with a formal hearing. The terms of the settlement were then placed on the record.

Complainant hereby moves to dismiss Count I of the Complaint in its entirety which pertains to violations of N.J.A.C. 13:45C-1.2; N.J.A.C. 13:45C-1.3(a) 1,2,4 and 6; and N.J.S.A. 45:1-21(h) for the failure to comply with the subpoena duces tecum. Respondent admits engaging in the conduct constituting the following violations: N.J.S.A. 45:6-10 and N.J.S.A. 45:1-7 in that he failed to renew his certificate of registration for the biennial renewal period of 1995-1997; and N.J.A.C. 13:45C-1.4 and N.J.S.A. 45:1-21(h) in that he violated the June 19, 1997 Order of the Board Entering Default and Imposing Sanctions in that while actively suspended Respondent was found practicing on the premises of his professional office.

Respondent in consideration of the Board's forbearance from the initiation of further litigation and being desirous of terminating this matter and the Board having determined that the within disposition is adequately protective of the public health, safety and welfare,

IT IS, therefore, on this 8<sup>th</sup> day of October, 1997,

ORDERED THAT:

1. The Order Entering Default and Imposing Sanctions filed June 19, 1997 is hereby vacated.

2. Respondent is hereby found to have engaged in conduct constituting a violation of N.J.S.A. 45:6-10 and N.J.S.A. 45:1-7 in that he failed to renew his certificate of registration for the biennial renewal period of 1995-1997 and is assessed a civil penalty in the amount of \$1500.00.

3. Respondent is hereby found to have engaged in conduct constituting a violation of N.J.A.C. 13:45C-1.4 and N.J.S.A. 45:1-21(h) by violating the June 16, 1997 Order of the Board Entering Default and Imposing Sanctions in that while actively suspended Respondent was found practicing on the premises of his professional office and assessed a civil penalty in the amount of \$2500.00.

4. Respondent's license to practice Dentistry in the State of New Jersey is hereby actively suspended for a period of two months.

5. Respondent is granted a period of thirty (30) days from the entry of this Order to complete all patient treatments in progress and/or obtain adequate coverage at which time the active suspension shall commence.

6. Respondent shall pay the aggregate civil penalty in the amount of \$4000.00 by way of certified check or money order payable to the State Board of Dentistry, submitted to the Executive Director, State Board of Dentistry, 124 Halsey Street, 6th floor, Newark, New Jersey, 07102.

7. Payment of the civil penalty shall be made in eight (8) equal installments of \$500.00 each. The first installment of \$500.00 shall be payable with the entry of this Order. Each subsequent installment shall be received by the Executive Director of the Board no later than 5:00 p.m. on the fifteenth day of each consecutive month commencing January 15, 1998. In the event that any installment payment is not made as ordered herein, the Board may elect to accelerate all payments and, if so elected, the remaining amount shall be due and payable on any date set by the Board.

8. Respondent shall take all necessary actions required to make current his certificate of registration including, but not limited to, payment of the \$320.00 licensing fee (\$220.00 licensing fee, \$100.00 late fee).

9. Respondent shall within seven (7) days provide proof of satisfaction of Continuing Education requirements for the 1993-1995 biennial

renewal period and the 1995-1997 renewal period. The Board reserves the right to impose additional penalties in the event that Respondent is unable to provide such proof.

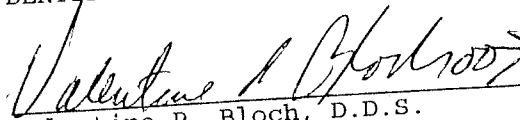
10. Respondent is hereby compelled to pay the sum of \$391.14, within thirty (30) days of the entry of this Order, which represents the investigative costs associated with the Default hearing of May 21, 1997.

11. Respondent is hereby compelled to pay costs associated with the September 8, 1997 inspection of Respondent's professional office and the costs associated with the September 10, 1997 appearance before the Board. The amount of said costs shall be provided by way of Affidavit to be supplied when available under separate cover. Payment shall be due within thirty (30) days from the date of service of the Affidavit.

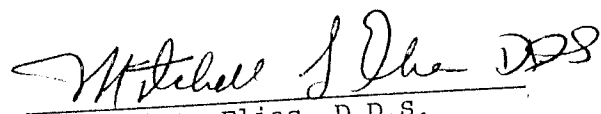
12. Settlement of this matter by entry of this Order is without prejudice to the Board's right and obligation to investigate, prosecute and impose penalties and sanctions for violations of Board statutes and regulations made known to the Board subsequent to the entry of this Order or revealed to the Board by its review of the records of patients "J.R." and "E.Y."

13. Respondent shall adhere to the Board's written "Directive Regarding Future Activities of Board Licensee who has been Suspended/Revoked and use of the Professional Premises", which are attached hereto and made a part hereof.


NEW JERSEY STATE BOARD OF  
DENTISTRY

  
Valentine P. Bloch, D.D.S.  
President

I have read and understood the  
within Order and agree to be  
bound by its terms. Consent is  
hereby given to the Board to  
enter this Order.

  
Mitchell L. Elias, D.D.S.  
Respondent

Consented to as to form:

  
Robert John Aste, Esq.  
Attorney for Respondent

DIRECTIVE REGARDING FUTURE ACTIVITIES  
OF BOARD LICENSEE WHO HAS BEEN SUSPENDED/  
REVOKED AND USE OF THE PROFESSIONAL PREMISES

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

- 1) Promptly deliver to the Board the original license and current biennial registration and, if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances registrations.
- 2) Desist and refrain from the practice of dentistry in any form either as principal or employee of another licensee.
- 3) Inform each patient at the time of any inquiry of the suspended or revoked or retired status of the licensee. When a new licensee is selected by a patient, the disciplined practitioner shall promptly make available the original or a complete copy of the existing patient record to the new licensee, or to the patient if no new licensee is selected. Such delivery of record does not waive any right of the disciplined practitioner to claim compensation earned for prior services lawfully rendered.
- 4) Not occupy, share or use office space in which another licensee practices dentistry.
- 5) Desist and refrain from furnishing professional dental services, giving an opinion as to the practice of dentistry or its application, or any advice with relation thereto; and from holding him/herself out to the public as being entitled to practice dentistry or in any way assuming to be a practicing professional or assuming, using or advertising in relation thereto in any other language or in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice dentistry. This prohibition includes refraining during the period of suspension or revocation from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing.
- 6) Cease to use any stationery whereon such person's name appears as a dentist in practice. If the practitioner was formerly authorized to issue written prescriptions for medication or treatment, such prescription pads shall be destroyed if the license was revoked. If the license was suspended, the prescriptions shall be destroyed or shall be stored in a secure location to prevent theft or any use whatsoever until issuance of a Board Order authorizing use by the practitioner. Similarly, medications possessed for office use shall be lawfully disposed

of, transferred or safeguarded.

7) Not share in any fee for dental services performed by any other licensee following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

8) Use of the professional premises. The disciplined licensee may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee, whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined licensee may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and either dispose of or store the dental material and equipment, but in no event shall the disciplined licensee, on the basis of a lease or any other agreement for compensation place in the possession of any operator, assistant or other agent such dental material and equipment, except by a chattel mortgage.

(c) No use of name of disciplined licensee or personally owned office name or tax- or provider identification number.

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or a corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a

member of a professional group which uses a group-type name such as the ABC Dental Group, the disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.

(9) Report promptly to the Board compliance with each directive requiring moneys to be reimbursed to patients or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

(10) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

- 1) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the Board in good standing.

- 2) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

(11) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 90 days after the effective date of the Board Order, file with the Executive Director of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence, address or telephone number shall be promptly reported to the Executive Director.